

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

SANTA MONICA MOUNTAINS CONSERVANCY

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December 13, 2007

SMMC
Attachment
6/23/08
Item 11 (a)

Stephanie Danner, Associate Planner
City of Malibu
23815 Stuart Ranch Road
Malibu, California 90265

**Comments on Notice of Preparation for a Draft Environmental Impact Report for
Malibu Legacy Park Project, Initial Study No. 07-012, Malibu Creek Watershed**

Dear Ms. Danner:

Santa Monica Mountains Conservancy (Conservancy) staff has reviewed the Notice of Preparation (NOP) for a Draft Environmental Impact Report (DEIR) for Malibu Legacy Park Project, Initial Study No. 07-012, Environmental Impact Report No. 07-002, Coastal Development Permit No. 07-132, and Capital Improvement Project No. 07-018. We offer the following comments.

- 1) The DEIR should identify the locations of current and historic natural drainage(s) onsite (surface flow, and flows from the subsurface drainage system) and address whether these would be retained and allowed to recover (either through passive or active restoration).
- 2) The DEIR should provide an explanation of current bird use and bird use expected after the project. For example, a heron rookery used to occur onsite, and the DEIR should address in what ways the project will be designed to provide habitat for herons and egrets. Many raptors utilize the area and the habitat and park uses should be designed to support their continued use.
- 3) The project site provides a valuable opportunity to restore coastal prairie/native grassland. A certain portion of the prairie should be designated as true wildlife habitat, with no direct human use (i.e., excluding foot traffic or other disturbances). This should include a minimum of a two-acre contiguous prairie, with an additional one acre of adjacent native habitat buffer (e.g., coastal bluff vegetation, riparian corridor), that is not subject to direct human use. There could be public viewing areas adjacent to this true wildlife habitat or a limited raised boardwalk through it. This approach is necessary to maximize habitat value and the educational experience.

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- 4) The DEIR should specify and describe what facilities at the Park will be accessible for disabled persons. The DEIR should also address whether there will be amenities that will provide for park users beyond the local community. If so, the DEIR should describe these amenities.
- 5) The development of a vernal pool is a worthwhile endeavor, and we anticipate it will provide valuable and needed habitat for animals such as native amphibians.

Thank you for your consideration of these comments. Please maintain our agency on the mailing list for this project. If you have any questions, please contact Judi Tamasi of our staff at the above address and by phone at (310) 589-3200, ext. 121.

Sincerely,

A handwritten signature in black ink, appearing to read "Rorie Skei". The signature is fluid and cursive, with the first name "Rorie" being more prominent than the last name "Skei".

RORIE SKEI
Chief Deputy Director



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December 13, 2007

Stephanie Danner, Associate Planner
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**Re: Comments on the Malibu Legacy Park Project Notice of Preparation ("NOP"): EIR
No. 07-002**

Dear Ms. Danner,

For many years, Heal the Bay has been actively involved in water quality and habitat restoration issues within the Malibu Creek Watershed. If done correctly, the Legacy Park project will have major positive implications for water quality and coastal habitats. As you are aware, Malibu Creek is listed as impaired for bacteria and nutrients. Significant stormwater and wastewater improvements are urgently needed to meet the bacteria and nutrient TMDLs. In addition, development in the watershed over the years has severely impacted many coastal habitats. Restoration of this currently degraded site will contribute to improving the ecological function of the lower watershed. We support the idea of combining these water quality improvement measures with habitat restoration, environmental education and passive recreation. While we realize the NOP is not designed to completely address all details of the proposed project, we submit these comments and questions to highlight issues that should be fully addressed in the EIR.

Stormwater Treatment

The City of Malibu currently can treat up to 1,400 gpm of stormwater runoff at their stormwater treatment facility. The NOP briefly describes the intent to construct an 8 acre-feet detention pond in Legacy Park to store additional stormwater that can be treated within 72 hours. How was this detention pond sized? What is the maximum volume that can be stored on-site at Legacy Park? The NOP states that "[t]he detention pond was sized to ensure compliance with Total Maximum Daily Loads (TMDL) regulations for pathogens...." While we agree that additional stormwater treatment capacity is beneficial, more detail should be provided on how this volume was calculated to ensure TMDL compliance. The EIR should provide a technical rationale for how the project will achieve compliance.

Also the NOP asserts that the treated stormwater would be reused to the maximum extent possible for irrigation of Legacy Park and the unused portion would be dispersed via an underground perforated piping network. What is the anticipated irrigation water need in Legacy Park? If the treated stormwater and wastewater are both slotted for this purpose, how much stormwater will actually get reused? Are there other reuse possibilities outside of Legacy Park that have been explored for water reuse? The EIR should address these important questions.

Wastewater Treatment and Reuse

A major component of the proposed project is a new wastewater treatment facility. The NOP states that the plant will have a design capacity of 380,000 gpd. What is the size of the collection area for the treatment facility and how was this design capacity determination made? Will all of



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the adjacent communities be served? Specifically, will the Malibu Colony, Serra Retreat, and the commercial section of PCH extending a half mile east of Malibu Pier be served? If not, what percentage will be served and provide an explanation as to why all of these areas will not be served? A larger collection area would have positive water quality impacts, as septic and on-site wastewater treatment systems are a significant contributor of nutrients and bacteria pollution in Malibu.

The NOP maintains that water reuse is a priority for the treated wastewater. The proposed plan includes a recycled water storage tank with a 250,000 gallon capacity. This storage capacity will not be sufficient for wet years, as it is significantly less than the daily treatment volume. How was this storage capacity calculated? This is less than one day of effluent volume from the treatment plant. The City should look at providing significantly more storage capacity similar to the Perpperdine and proposed Adamson Hotel projects. What is the estimated volume that the potential reuse customers would need each day? Are the 25 potential recycled water users the only landowners considered for reuse opportunities? Would the underground perforated piping system be able to handle this daily volume in the wet season when reuse needs drop? These questions should be addressed in the EIR.

Serra Retreat On-site Wastewater Treatment System

The NOP describes the proposal to construct an on-site wastewater treatment system at Serra Retreat. Was consideration given to installing a new collection system at Serra Retreat to be routed to the proposed wastewater treatment facility? This should be part of the alternatives analysis. Also, where will this proposed on-site system be located?

The stated goal of the on-site system is to address nitrogen loading. The planned system would reduce nitrogen levels to 7 mg/l. We commend the City for focusing on Serra Retreat, as Serra Retreat is a large source of nutrients. How will the system be monitored to ensure that the 7 mg/l treatment goal is met? Will a 7 mg/l treatment level allow Serra Retreat to meet the TMDL load allocations of zero for nitrates? Also, the NOP does not describe what will be done for bacteria pollution from Serra Retreat. A bacteria TMDL also exists for Malibu Creek, and Serra Retreat is a known source of bacteria. Will the on-site treatment system also include bacteria treatment such as UV treatment?

Park and Habitat Restoration

The project proposes to develop a 15 acre degraded coastal wetland site into a community amenity that will provide valuable riparian and coastal habitat, education, and passive recreation opportunities in conjunction with water quality improvements. The NOP states that "the design of the park would take advantage of the surrounding views while providing places for civil and cultural events." This description of potential uses provides conflicting restoration/landscaping designs. In addition, the NOP states that "a few non-native plants (primarily street trees) would be included to support a diverse sustainable community." Is there a restoration plan or will the project be more of an educational multi-habitat demonstration park?

The restoration project should exhibit the beauty and utility of natural ecosystems and their native plants. If the project is done correctly, the results will show the strong environmental stewardship of the City of Malibu and provide citizens and visitors with examples they can use to reduce their impact on the environment. Also, how will habitat at Legacy Park enhance the



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ecological health of the Malibu Lagoon? How will the design enhance the golf course parcel, when it is acquired by the Coastal Conservancy in the future?

The EIR should address the acreage allocated for each of these goals - natural habitat, recreation and passive recreation. In addition, the areas allocated for "civic events" and "spilling out from the street and providing areas for booths and small gatherings" should be identified. For the restoration project to be successful, the proposed restoration areas must not be negatively impacted by these activities. One example of a civic event would be the firefighter staging area. How much space would be allocated for this activity and how will impacts to the natural restoration areas be mitigated? If there are other civic events planned for the area, the area required for these events should also be considered. The restoration/landscape design should adequately outline the expected habitats that will be created for protected species habitats. This will help mitigate potential impacts caused by civic and spilling out events.

Restoration and landscaping on this site should be designed utilizing native vegetation only. Restoration utilizing non-native species would defeat the purpose of a restoration project. In addition, non-native trees along the street will likely require additional water and fertilizers and may potentially escape into adjacent natural areas. Landscaping should exemplify the use of native low-water requiring plant species including native grasses. Non-native trees may also provide a conduit for the spread of fire as has been seen with Eucalyptus, pepper trees and other non-native tree species in Malibu and other Southern California communities.

The use of non-native trees to outline the streets and non-native grasses recreation and civic events would de-value the City's efforts at restoring natural habitats and reduce the educational value of the park. The use of non-native plants (including grasses) should be strongly discouraged in areas adjacent to natural areas. The City will send the wrong message to its citizens if non-natives are incorporated into their restoration/landscaping design and invalidate any environmental educational value of the proposed restoration project.

Thank you for your consideration of these comments. If you have any questions, please contact us at 310-451-1500.

Sincerely,

Kirsten James
Water Quality Director

Joyce Sisson
Watershed Monitoring and Restoration
Manager

Table 1: Scoping Comments and Responses

No.	Date	Name or Agency	Topic (Air Quality, Noise, Traffic, etc.)	Comment	Response
Public Agencies					
1	11/27/2007	Native American Heritage Commission, David Singleton, Program Analyst	Cultural Resources	Recommends procedures for assessing project-related impacts on cultural resources.	Comment noted. Section 3D, Archeological resources section has been prepared in accordance with the recommended procedures.
2	11/27/2007	South Coast Air Quality Management District, Steve Smith	Air Quality	Recommends procedures, models and data sources for assessing project-related impacts on air quality and mitigation measures for reducing the impacts.	Comment Noted. Section 3B, Air Quality has been prepared in accordance with the recommended procedures, guidelines and models. Suitable mitigation measures to reduce the impacts have been provided in the section.
3	12/10/2007	California Department of Fish and Game, Terri Dickerson, Senior Environmental Scientist	Biological Resources	Asking for complete documents regarding assessment of biological resources in the Draft EIR and information about data sources for the assessment. Recommendations about the assessment of the impacts on the biological resources	Comments Noted. Section 3C, Biological resources has been prepared in accordance with the recommended procedures and guidelines. The Draft EIR includes the complete assessments of all the biological resources being affected by the project.
4	12/13/2007	Heal the Bay, Kristen James and Joyce Sisson	Project Description, Hydrology and water Quality, Biological Resources, Utility	Requests for more information regarding the project description and methodology on arriving the acreage for various components of the project; concerns regarding the adequacy of the project to handle the storm water generated from the project area and also adequacy of water reuse infrastructure in the project; concerns expressed over alternative uses of the park and their effects on habitat restoration; and the effects of trees and plants being used for habitat restoration.	Comments Noted. See Chapter 2 Project Description for additional details about the project, see Section 3H Hydrology and Water Quality for hydrology and water quality concerns, Section 3C Biological Resources addresses the concerns regarding habitat restoration.

Table 1: Scoping Comments and Responses

No.	Date	Name or Agency	Topic (Air Quality, Noise, Traffic, etc.)	Comment	Response
5	12/13/2007	Malibu Surfing Association, Michael Blum, President	Hydrology and Water Quality, Wastewater Treatment	Concerns Regarding water quality and Wetland restoration, adequacy of the Detention pond to treat storm water run-off. There are concerns expressed over alternative uses of the park; consistency of the project outcomes with other watershed management efforts in the area.	Comments Noted. See Section 3H Hydrology and Water Quality and Section 3C Biological Resources.
6	12/13/2007	Santa Monica Mountains Conservancy, Rorie Skei, Chief Deputy Director	Hydrology, Biological Resources, Transportation and Circulation and Project Description	Concerns regarding impacts on natural drainage channels in the area; impacts on existing birds and raptors in the area; impacts on natural habitats like coastal prairie/ grasslands and vernal pools for raptors; access for the disabled; and the list of amenities in the proposed project for park users	Comment Noted. The Concerns regarding drainage channels is addressed in Section 3H Hydrology and Water Quality, Section 3C Biological Resources addresses the concerns regarding impacts on birds, raptors, amphibians and the natural habitats in the project site, Section 3L Transportation and Circulation addresses the access issues for the disabled and Chapter 2 Project Description identifies the amenities provided under the Project.
7	01/03/2008	Los Angeles County Department of Public Works, Land Development Division, Conal McNamara	Utilities	Concerns regarding the water supply and the adequate infrastructure for water supply of the project.	Comment Noted. Section 3M Utilities, addresses the impacts on the water supply as a result of the additional water demand generated by the project.